

UNITED STATES BANKRUPTCY COURT

DISTRICT OF SOUTH CAROLINA

IN RE:

ELLECO, INC.

Debtor.

B/K Case No. 00-06215-W

Chapter 7

TO: All Creditors and Parties in Interest

NOTICE AND APPLICATION FOR SALE OF PROPERTY FREE AND CLEAR OF LIENS

YOU ARE HEREBY NOTIFIED that the Trustee in this case is applying for approval to sell the property of the debtor's estate described below free and clear of all liens and encumbrances according to the terms and conditions stated below.

TAKE FURTHER NOTICE that any response, return and/or objection to this application, should be filed with the Clerk of the Bankruptcy Court no later than 20 days from service of the motion/application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on **May 17, 2001 at 1:30 o'clock p.m.** in the United States Bankruptcy Court, 145 King Street, Room 225, Charleston, South Carolina. No further notice of this hearing will be given.

TYPE OF SALE: Private Sale

PROPERTY TO BE SOLD: Lot 1, Timber Race Course, Hollywood, SC 29449
(TMS# 248-03-00-182)

NOTICE: THE TRUSTEE IS SELLING THE ABOVE-REFERENCED PROPERTY "AS IS," WITH NO WARRANTIES WHATSOEVER. THE BUYER AGREES TO RECEIVE THE PROPERTY WITH ALL FAULTS. THE TRUSTEE MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE PROPERTY, AND SPECIFICALLY EXCLUDES ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR USE. PROPERTY TO BE CONVEYED BY QUIT CLAIM DEED.

THE BUYER HAS BEEN GIVEN THE OPPORTUNITY TO EXAMINE THE PROPERTY BEFORE SIGNING ANY CONTRACT OR SUBMITTING A BID TO PURCHASE THE PROPERTY, AND TO PERFORM SUCH TESTING, IF APPLICABLE, TO DETECT POSSIBLE LATENT DEFECTS.

1168/1169

PRICE: \$48,500.00

APPRAISAL VALUE: \$52,500 per Trustee's realtor's estimate of value

NAME OF BUYER: KENNETH N. SAWYER
2867 Maybank Highway
Johns Island, SC 29455

This Buyer has no known adverse interest in this case or with any parties involved in the case, including the Chapter 7 Trustee and the U.S. Trustee's office. The Buyer is not related to the Debtor and is not a creditor of the Debtor. The Trustee believes that Buyer is a good faith purchaser for value as defined by 11 U.S.C. §363(m).

PLACE, DATE AND TIME OF SALE: The sale shall take place as soon as possible after final Bankruptcy Court approval at a date, place and time to be agreed upon by the parties.

SALES AGENT/AUCTIONEER/BROKER/ETC.: Century 21 Properties Plus, Inc., 389 Johnnie Dodds Blvd, Mt. Pleasant, SC 29464; (843) 856-0021; contact Bryan Chavers with questions concerning the sale.

EXPENSES OF SALE: Normal seller's closing costs

COMPENSATION TO SALES AGENT/AUCTIONEER/BROKER/ETC.: \$4,850.00 = ten(10%) percent of the gross sales proceeds. Please note that this amount may increase if the sales price increases.

ESTIMATED TRUSTEE'S COMPENSATION: Reasonable compensation in an amount to be determined by the Court (but not to exceed the limits set in 11 U.S.C. §326(a)) and estimated to be \$5,600.

LIENS/MORTGAGES/SECURITY INTERESTS ENCUMBERING PROPERTY:

This sale is free and clear of all liens, judgments and other encumbrances. Charleston County real property taxes are a lien against the real property and shall be pro-rated through the date of closing. There is a valid first mortgage lien held against this real property by SouthTrust Bank with an approximate payoff of \$298,401.00. This is a blanket lien on eight (8) lots owned by the Debtor. After normal seller's closing costs, including real estate commissions, pro-rated real property taxes and other fees and charges, SouthTrust Bank shall be paid at closing a lot release amount equal to 95% of the remaining proceeds on each sale, until paid in full. As to the remaining 5% of the proceeds, and after SouthTrust Bank has been paid in full the remaining proceeds, the Trustee shall be authorized to deduct his compensation authorized pursuant to 11 U.S.C.326(a). Further, pursuant to 11 U.S.C. §506(c), the Trustee shall be authorized to deduct reasonable compensation and other costs and expenses incurred in disposing of this real property, which is for the benefit of the disputed creditors. The lot sale proceeds, if any, remaining after payment of all of the above shall constitute the "net sale proceeds".

William J. Platt and/or South Atlantic Development and Construction, Inc. had asserted an equitable lien against this real property arising out of an unperfected mortgage with the Debtor. This disputed lien was found to be unperfected and unenforceable against the estate by previous Order of this Court.

On August 9, 1999, the S.C. Department of Revenue filed a tax lien against the Debtor in the amount of \$3,779.40. On November 5, 1999, the S.C. Department of Revenue filed a tax lien against the Debtor in the amount of \$2,713.04. On January 5, 2000, the S.C. Department of Revenue filed a tax lien against the Debtor in the amount of \$1,236.20. On February 14, 2000, the Department of Treasury filed a Notice of Federal Tax Lien in the amount of \$30,579.37. On March 7, 2000, the S.C. Department of Revenue filed a tax lien against the Debtor in the amount of \$3,015.33. On March 29, 2000, the S.C. Employment Security Commission filed a tax execution against the Debtor in the amount of \$796.69. On June 15, 2000, the S.C. Department of Revenue filed a tax lien against the Debtor in the amount of \$5,507.84. These disputed liens shall attach to the net sale proceeds in the order of their priority as against other liens. The Trustee has filed adversary proceeding to determine the validity, extent and priority of these disputed liens so as to determine the proper distribution of the net sale proceeds.

Additionally, on July 20, 2000, one day after the Debtor filed for bankruptcy relief, the Department of Treasury filed a Notice of Federal Tax Lien against the Debtor. The Trustee believes that this lien has been withdrawn by the creditor.

On August 22, 2000, over thirty days after the Debtor filed for bankruptcy relief, Balvinder S. Dabra recorded a judgment lien (2000-JG-10-01525) against the Debtor. By previous Order of this Court, it found that the filing of this judgment lien was without Court authorization, in violation of the automatic stay, and is avoidable pursuant to 11 U.S.C. §549. As such, it was voided by the Court.

Additionally, there were Lis Pendens filed against the Debtor by Lakeshore Investments, LLC (2000-LP-10-177); David E. Nelson and Rita G. Nelson (2000-LP-10-185); and Carl Beck (2000-LP-10-219). There were also several state court complaints pending against the Debtor, including Southeastern Pipe & Drain System, Inc. (00-CP-10-1159); Tarmac America, Inc. (00-CP-10-1210); Lakeshore Investments, Inc. (00-CP-10-2108); David E. Nelson and Rita G. Nelson (00-CP-10-2209); and New Holland Credit Company (00-CP-10-2535). All of these actions were automatically stayed upon the commencement of this bankruptcy case. Further, none of these actions went to judgment and all are therefore unsecured. To the extent they do constitute liens against the real property, they shall attach to the net sale proceeds in the order of their priority pending resolution of this matter by the consent of the parties or Order of this Court through adversary proceeding.

Finally, the sale of this real property is subject to all properly recorded easements, rights of way, covenants, restrictions or other similar agreements or documents.

DEBTOR'S EXEMPTION: N/A

PROCEEDS ESTIMATED TO BE PAID TO ESTATE: SouthTrust has a blanket lien upon all eight (8) lots owned by the Debtor. It is anticipated that this lien will be paid in full from previous lot closings prior to this sale being consummated. Therefore, proceeds estimated to be paid to the Estate are \$43,165.00, less the anticipated Trustee commission of \$5,600.00.

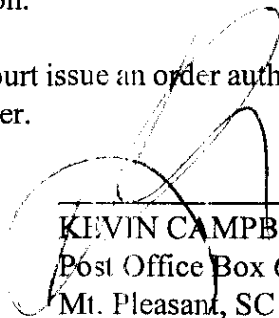
Applicant is informed and believes that it would be in the best interest of the estate to sell said property by private sale. Applicant also believes that the funds to be recovered for the estate from the sale of said property justify its sale and the filing of this application.

The Court may consider additional offers at any hearing held on this notice and application for sale. The Court may order at the hearing that the property be sold to another party on equivalent or more favorable terms.

If there is no objection to this Notice of Sale and for any reason the sale is not consummated, the Trustee may sell the subject property for the same or higher price, without further notice.

The Trustee may seek appropriate sanctions or other similar relief against any party filing a spurious objection to this notice and application.

WHEREFORE, applicant requests the court issue an order authorizing sale of said property and such other and further relief as may be proper.



KEVIN CAMPBELL, TRUSTEE
Post Office Box 684
Mt. Pleasant, SC 29465
(843) 884-6874/884-0997(fax)
District Court ID No. 30

Dated this 22 day of March, 2001.